

§ 401.605

pilot failing to notify the Director within the prescribed period is deemed to have waived his or her right to a hearing.

(b) A United States Registered Pilot whose application was timely filed, on receipt of notice that renewal of his or her Certificate of Registration has been denied pursuant to § 401.240(c), who fails to notify the Director within fifteen (15) days of the receipt of such notice that he or she desires a hearing, is deemed to have waived his or her right to a hearing.

[29 FR 11595, Aug. 13, 1964, as amended at 32 FR 14222, Oct. 13, 1967; 61 FR 5721, Feb. 14, 1996. Redesignated and amended at 61 FR 32655, June 25, 1996, and further redesignated and amended by USCG-1998-3976, 63 FR 35139, June 29, 1998; USCG-2002-13058, 67 FR 61279, Sept. 30, 2002]

§ 401.605 Notice.

(a) The Director, upon receipt of notice that a U.S. Registered Pilot elects to exercise his rights to a hearing, shall arrange for a hearing and notify the pilot of the time, date and place it is to be held.

[32 FR 14222, Oct. 13, 1967. Redesignated at 61 FR 32655, June 25, 1996, and further redesignated by USCG-1998-3976, 63 FR 35139, June 29, 1998]

§ 401.610 Hearing.

(a) The hearing shall be held at the time and place designated with due regard to the convenience and necessity of the parties.

(b) The hearing shall be held on the record before an Administrative Law Judge appointed as provided by section 11 of the Administrative Procedure Act (5 U.S.C. 3105). Hearings shall be conducted in accordance with sections 5, 7, and 8 of the Administrative Procedure Act, as amended (5 U.S.C. 554, 556, 557).

[32 FR 14222, Oct. 13, 1967. Redesignated at 61 FR 32655, June 25, 1996, and further redesignated by USCG-1998-3976, 63 FR 35139, June 29, 1998]

§ 401.615 Representation.

(a) The U.S. Registered Pilot, designated "respondent" in a suspension or revocation hearing or "applicant" in a refusal-to-renew-registration hear-

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ing, may be represented before the Administrative Law Judge by any person who is a member in good standing of the bar of the highest court of any State, Commonwealth, Territory, Possession, or the District of Columbia, upon filing with the Administrative Law Judge a written declaration that he is currently qualified and is authorized to represent the particular party in whose behalf he acts.

(b) Whenever a person acting in a representative capacity appears in person or signs a paper in practice before the Administrative Law Judge, Director, Commandant, the Administrator, or other official of the U.S. Coast Guard, his personal appearance or signature shall constitute a representation that under the provisions of this subpart and applicable law he is authorized and qualified to represent the particular person in whose behalf he acts.

(c) When any Registered Pilot is represented by an attorney at law, any notice or other written communication required or permitted to be given to or by such a U.S. Registered Pilot shall be given to or by such attorney. If a U.S. Registered Pilot is represented by more than one attorney, service by or upon any one of such attorneys shall be sufficient.

[32 FR 14222, Oct. 13, 1967, as amended at 61 FR 5721, Feb. 14, 1996. Redesignated at 61 FR 32655, June 25, 1996, and further redesignated and amended by USCG-1998-3976, 63 FR 35139, June 29, 1998]

§ 401.620 Burden of proof.

(a) In a suspension or revocation hearing, the Director shall have the burden of establishing, by substantial evidence, the grounds for a suspension or revocation of a Certificate of Registration held by a pilot, as stated in the letter addressed to such pilot notifying him of the U.S. Coast Guard intention to suspend or revoke the pilot's registration.

(b) In a refusal-to-renew-registration hearing, the Director shall have the burden of establishing the grounds for the Director's determination under